

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

MICHAEL M. RUSSELL, LAURIE L.
RUSSELL,

Defendants.

4:12CR3042

MEMORANDUM AND ORDER

The Defendants have moved to continue the trial currently set for February 12, 2013. They request a May trial setting. (Filing No. 27). As explained in the defendants' motion, the defendants' counsel needs additional time to review discovery and prepare for trial. The government objects to the length of the requested continuance, but agree the trial should be continued until April 2013. (Filing No. 31). Having reviewed the defendants' motion, the government's objection, and the court's calendar,

IT IS ORDERED:

- 1) The government's objection (Filing No. 31) is sustained, and the defendants' motion to continue, (Filing No. 27), is granted in part.
- 2) **As to both defendants**, the trial of this case is set to commence before the Honorable John M. Gerrard, United States District Judge, in Courtroom 1, United States Courthouse, Lincoln, Nebraska, at 9:00 a.m. on April 1, 2013, or as soon thereafter as the case may be called, for a duration of five (5) trial days. Jury selection will be held at commencement of trial.
- 3) Based upon the showing set forth in the defendants' motion and the representations of counsel, the Court further finds that the ends of justice will be served by continuing the trial; and that the purposes served by continuing the trial date in this case outweigh the interest of the defendants and the public in a speedy trial. Accordingly, **as to both defendants**, the additional time arising as a result of the granting of the motion, the time between January 18, 2013 and April 1, 2013, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, because despite counsel's due diligence, additional time is needed to adequately prepare this case for trial and failing to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(1) & (h)(7).

January 22, 2013.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge